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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

X Corp.,

Plaintiff,

v.

BRIGHT DATA LTD.

Defendant

Case No. 23-cv-03698-WHA

Time: January 10, 2024, 8:00 AM

Court: Courtroom 12

Judge: Hon. William Alsup

BRIGHT DATA'S STATEMENT RECENT AUTHORITY

Bright Data submits this Statement of Supplemental Authority concerning the Ninth Circuit's decision this week in *Doe v. WebGroup Czech Republic, A.S.*, 2024 WL 16828 (9th Cir. Jan. 2, 2024) on personal jurisdiction. (Attached Ex. 1). We submit this statement, not because the case is relevant to X's claims, but to bring it to the Court's attention and to explain why it is irrelevant. Put simply, *Doe* involved ***federal claims*** and defendants that were not subject to the personal jurisdiction of ***any*** state court.

Under Federal Rule of Civil Procedure 4(k)(2), where there is federal question jurisdiction,

1 but no state court can exercise jurisdiction over the defendant, the court looks to the defendants’
2 contacts with the United States as a whole. *Id.* (quoting Fed. R. Civ. P. 4(k)(2) (“For a claim that
3 arises under federal law, serving a summons or filing a waiver of service establishes personal
4 jurisdiction over a defendant if: (A) the defendant is not subject to jurisdiction in any state’s courts
5 of general jurisdiction; and (B) exercising jurisdiction is consistent with the United States
6 Constitution and laws.”)). Rule 4(k)(2), therefore, is triggered only if the state court **cannot**
7 exercise personal jurisdiction.

8 In *Doe*, even though the plaintiff was a California resident, part of the tortious conduct (the
9 underlying abuse) occurred in California, and the defendant contracted with California-based
10 entities to provide its services, California lacked jurisdiction under *Shopify*. *Doe*, 2024 WL 16828;
11 *Briskin v. Shopify, Inc.*, 87 F.4th 404 (9th Cir. 2023). Indeed, because Rule 4(k)(2) would not
12 apply if California had jurisdiction, all conduct at issue in *Doe* must, by definition, fail to establish
13 conduct “expressly aimed” at California. While the plaintiff also brought a state law claim under
14 California law, the Ninth Circuit did not hold that there was independent specific personal
15 jurisdiction for that claim. Instead, it exercised pendant party jurisdiction because of the existence
16 of a *federal* claim for which there was jurisdiction under Rule 4(k)(2). 2024 WL 16828, at *4 n.5
17 (“[W]hen **federal law** allows for personal jurisdiction against a particular defendant with respect
18 to **federal claims**, pendent or supplemental jurisdiction may be asserted over related state law
19 claims against the same defendant.”).

20 While in *Shopify*, the Ninth Circuit held that state courts lack personal jurisdiction “[w]hen
21 a company operates a **nationally** available e-commerce payment platform and is indifferent to the
22 location of end-users,” *see* 87 F. 4th at 409, in *Doe*, the court explained that where federal law is
23 implicated, a broader approach is warranted. 2024 WL 16828, at *4 n.5. In such cases, if no state
24 court has personal jurisdiction over the defendant, then the court can still exercise jurisdiction if
25 the defendant has sufficient contacts with the “United States as a whole.” That is, Congress’s
26 power to exercise jurisdiction over foreign defendants consistent with the Constitution of the
27 United States is broader than any individual State’s power to interfere with interstate commerce
28 by exercising personal jurisdiction over national internet platforms.

1 This principle disposes of X's claims because it only brings state law causes of action.

2
3 Dated: January 5, 2024

Respectfully submitted,

4
5 /s/ Colin Kass

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